



[OMB No. 3064-0018; - 0165; - 0183; -0195]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the request to renew the existing information collections described below (OMB Control No. 3064-0018; - 0165; - 0183; and - 0195).

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
- *Email:* comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202-898-3767), Regulatory Counsel, MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION, CONTACT: Manny Cabeza, Regulatory Counsel, 202-898-3767, mcabeza@fdic.gov, MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. Title: Application Pursuant to Section 19 of the Federal Deposit Insurance Act

OMB Number: 3064-0018.

Form Number: 6710 - 07.

Affected Public: Individuals and FDIC-insured depository institutions.

Burden Estimate:

Summary of Annual Burden						
Information Collection Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Average Frequency of Response	Estimated Time per Response	Estimated Annual Burden
Application Pursuant to Section 19 of the Federal Deposit Insurance Act	Reporting	Mandatory	73	1	16 hours	1,168 hours

Total Estimated Annual Burden **1,168 hours**

General Description of Collection: Section 19 of the Federal Deposit Insurance Act (FDI), 12 U.S.C. Section 1829, requires the FDIC's consent prior to any participation in the affairs of an insured depository institution by an individual who has been convicted of crimes involving dishonesty or breach of trust, and included drug-related convictions. To obtain that consent, certain individuals and insured depository institutions must submit an application to the FDIC for approval on Form FDIC 6710/07.

2. Title: Pillar 2 Guidance - Advanced Capital Framework

OMB Number: 3064-0165.

Form Number: None.

Affected Public: Insured state nonmember banks and certain subsidiaries of these entities.

Burden Estimate:

Summary of Annual Burden						
Information Collection Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response	Estimated Annual Burden
Pillar 2 Guidance	Recordkeeping	Voluntary	1	4	105 hours	420 hours

Total Estimated Annual Burden

420 hours

General Description of Collection: There has been no change in the method or substance of this information collection. The number of institutions subject to the record keeping requirements has decreased from eight (8) to two (2). In 2008 the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the FDIC issued a supervisory guidance document related to the supervisory review process of capital adequacy (Pillar 2) in connection with the implementation of the Basel II Advanced Capital Framework.¹ Sections 37, 41, 43 and 46 of the guidance include possible information collections. Section 37 provides that banks should state clearly the definition of capital used in any aspect of its internal capital adequacy assessment process (ICAAP) and document any changes in the internal definition of capital. Section 41 provides that banks should maintain thorough documentation of its ICAAP. Section 43 specifies that the board of directors should approve the bank's ICAAP, review it on a regular basis and approve any changes. Section 46 recommends that boards of directors periodically review the assessment of overall capital adequacy and

analyze how measures of internal capital adequacy compare with other capital measures such as regulatory or accounting.

3. Title: Credit Risk Retention

OMB Number: 3064-0183.

Form Number: None.

Affected Public: Insured state nonmember banks, state savings institutions, insured state branches of foreign banks, and any subsidiary of the aforementioned entities.

General Description of Collection: This information collection request comprises disclosure and recordkeeping requirements under the credit risk retention rule issued pursuant to section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o-11), as added by Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”).¹ The Credit Risk Retention rule (“the Rule”) was jointly issued in 2015 by the Federal Deposit Insurance Corporation (“FDIC”), the Office of the Comptroller of the Currency (“OCC”), the Federal Reserve Board (“Board”), the Securities and Exchange Commission (“SEC”) and, with respect to the portions of the Rule addressing the securitization of residential mortgages, the Federal Housing Finance Agency (“FHFA”) and the Department of Housing and Urban Development (“HUD”).² The FDIC regulations corresponding to the Rule are found at 12 CFR part 373.³ Section 941 of Dodd-Frank requires the Board, the FDIC, the OCC (collectively, the “Federal banking agencies”), the Commission and, in the case of the

¹ Pub. L. No.111-2-3, 124 Stat. 1376 (2010).

² 79 FR 77740.

³ Each agency adopted the same rule text but each agency’s version of its rule is codified in different parts of the Code of Federal Regulations with substantially identical section numbers (e.g. __.01; __.02, etc.) Rule citations herein are to FDIC’s version of the Rule which is codified at 12 CFR part 373.

securitization of any “residential mortgage asset,” together with HUD and FHFA, to jointly prescribe regulations that (i) require a an issuer of an asset-backed security or a person who organizes and initiates an asset backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer (“issuer or organizer”) to retain not less than five percent of the credit risk of any asset that the issuer or organizer, through the issuance of an asset-backed security (“ABS”), transfers, sells or conveys to a third party and (ii) prohibit an issuer or organizer from directly or indirectly hedging or otherwise transferring the credit risk that the issuer or organizer is required to retain under section 941 and the agencies’ implementing rules. Exempted from the credit risk retention requirements of section 941 are certain types of securitization transactions, including ABS collateralized solely by qualified residential mortgages (“QRMs”), as that term is defined in the Rule. In addition, Section 941 provides that the agencies must permit an issuer or organizer to retain less than five percent of the credit risk of residential mortgage loans, commercial real estate (“CRE”) loans, commercial loans and automobile loans that are transferred, sold or conveyed through the issuance of ABS by the issuer or organizer, if the loans meet underwriting standards established by the Federal banking agencies.

The FDIC implemented Section 941 of Dodd-Frank through 12 CFR part 373 (the “Rule”). The Rule defines a securitizer as (1) The depositor of the asset-backed securities (if the depositor is not the sponsor); or (2) The sponsor of the asset-backed securities.⁴ The Rule provides a menu of credit risk retention options from which securitizers can choose and sets out the standards, including disclosure, recordkeeping, and reporting requirements, for each option; identifies the

⁴ 12 CFR 373.2.

eligibility criteria, including certification and disclosure requirements, that must be met for ABS offerings to qualify for the QRM and other exemptions; specifies the underwriting standards for CRE loans, commercial loans and automobile loans, as well as disclosure, certification and recordkeeping requirements, that must be met for ABS issuances collateralized by such loans to qualify for reduced credit risk retention; and sets forth the circumstances under which retention obligations may be allocated by sponsors to originators, including disclosure and monitoring requirements.

Part 373 contains several requirements that qualify as information collections under the Paperwork Reduction Act of 1995 (“PRA”). The information collection requirements are found in §§ 373.4; 373.5; 373.6; 373.7; 373.8; 373.9; 373.10; 373.11; 373.13; 373.15; 373.16; 373.17; 373.18; and 373.19(g). The recordkeeping requirements relate primarily to (i) the adoption and maintenance of various policies and procedures to ensure and monitor compliance with regulatory requirements and (ii) certifications, including as to the effectiveness of internal supervisory controls. The required disclosures for each risk retention option are intended to provide investors with material information concerning the sponsor’s retained interest in a securitization transaction (e.g., the amount, form and nature of the retained interest, material assumptions and methodology, representations and warranties). Compliance with the information collection requirements is mandatory, responses to the information collections will not be kept confidential and, with the exception of the recordkeeping requirements in sections 373.4(d), 373.5(k)(3) and 373.15(d), the Rule does not specify a mandatory retention period for the information.

Burden Estimate:

Change is burden estimation methodology:

1) Prior Methodology

To determine the total paperwork burden for the requirements contained in the Credit Risk Retention Rule, FDIC first estimated the universe of sponsors that would be required to comply with the disclosure and recordkeeping requirements. FDIC estimated that approximately 270 unique sponsors conduct ABS offerings each year.⁵ This estimate was based on the average number of ABS offerings from 2007 through 2017 reported by the ABS database Asset-Backed Alert for all non-CMBS transactions and by Commercial Mortgage Alert for all CMBS transactions.⁶ Of the 270 sponsors, the agencies assigned 8 percent of these sponsors to the Board, 12 percent to FDIC, 13 percent to the OCC, and 67 percent to the Commission.⁷

Next, FDIC estimated how many respondents keep records and make required disclosures by estimating the proportionate amount of offerings per year for each agency. The estimate was based on the average number of ABS offerings from 2007 through 2017. The agencies estimated the total number of annual offerings per year to be 1,400⁸ which resulted in the following:

- a) 13 offerings per year will be subject to disclosure and recordkeeping requirements under §373.11, which are divided equally among the four agencies (i.e., 3.25 offerings per year per agency);

⁵ By agreement among the agencies, the FDIC's Division of Insurance Research, in consultation with its counterparts at the other agencies, prepared and documented the burden estimation methodology used by all agencies in their respective ICRs.

⁶ Data was provided by the Securities and Exchange Commission. See SEC supporting statement for its information collection for the Credit Risk Retention rule (3235-0712) available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201803-3235-014

⁷ The allocation percentages among the agencies were based on the agencies' latest assessment of data as of August 13, 2018, including the securitization activity reported by FDIC-insured depository institutions in the June 30, 2017 Consolidated Reports of Condition.

⁸ Based on ABS issuance data from Asset-Backed Alert on the initial terms of offerings, supplemented with information from Commercial Mortgage Alert. This estimate included registered offerings, offerings made under Securities Act Rule 144A, and traditional private placements. This estimate was for offerings not exempted under §§ .19(a)-(f) and .20 of the Rule.

b) 110 offerings per year were estimated to be subject to disclosure and recordkeeping requirements under §§373.13 and 373.19(g), which were divided proportionately among the agencies based on the entity percentages described above:

- (i) Nine (9) offerings per year for the Board (8%);
- (ii) 13 offerings per year for the FDIC (12%);
- (iii) 14 offerings per year for the OCC (13%);
- (iv) 74 offerings per year for the Commission (67%).

c) 132 offerings per year were estimated to be subject to the disclosure requirements under §373.15, which were divided proportionately among the agencies based on the entity percentages described above:

- (i) 11 offerings per year for the Board (8%);
- (ii) 16 offerings per year for the FDIC (12%);
- (iii) 17 offerings per year for the OCC (13%);
- (iv) 88 offerings per year for the Commission (67%).

d) Of these 132 offerings per year, 44 offerings per year were estimated to be subject to disclosure and recordkeeping requirements under §§373.16, 373.17, and 373.18, respectively, which were divided proportionately among the agencies based on the entity percentages described above:

- (i) 4 offerings per year for each section for the Board (8%);
- (ii) 6 offerings per year for each section for the FDIC (12%);
- (iii) 6 offerings per year for each section for the OCC (13%);
- (iv) 29 offerings per year for each section for the Commission (67%).

To obtain the estimated number of responses (equal to the number of offerings) for each option in subpart B of the rule, FDIC multiplied the number of offerings

estimated to be subject to the base risk retention requirements (i.e., 1,158)⁹ by the sponsor percentages described above. The result was the number of base risk retention offerings per year per agency. For the FDIC, this was calculated by multiplying 1,158 offerings per year by 12 percent, which equals 139 offerings per year. This number was then divided by the number of base risk retention options under subpart B of the rule (i.e., nine)¹⁰ to arrive at the estimate of the number of offerings per year per agency per base risk retention option. For the FDIC, this was calculated by dividing 139 offerings per year by nine options, resulting in 15 offerings per year per base risk retention option.

The agencies assumed that 90% of institutions use the vertical interest form of risk retention while the remaining 10% use the combined vertical and horizontal form of risk retention. The burden tables above use this allocation and of the 45 responses attributed to §373.4, we allocated 40 (90%) to the vertical form of risk retention and 5 (10%) to the other two options (1 response to the horizontal form of risk retention and 4 responses to the combined vertical and horizontal form of risk retention).

FDIC believes that the burden estimation methodology previously used overestimates the number of ABS offerings by FDIC-supervised institutions. Furthermore, the OCC has confirmed that the estimates it used for its 2021 renewal of OCC's Credit Risk Retention information collection are based on the expertise of the OCC's subject matter experts rather than the 2015 interagency

⁹ Estimate of 1,400 offerings per year, minus the estimate of the number of offerings qualifying for an exemption under §§373.13, 373.15, and 19(g) as described in (b) and (c) above (i.e. 1,400 minus (b) 110 minus (c) 132 equals 1,158).

¹⁰ For purposes of this calculation, the horizontal, vertical, and combined horizontal and vertical risk retention methods under the standard risk retention option (§373.4) are each counted as a separate option under subpart B of the rule. The other six are: §§373.5; 373.6; 373.7; 373.8; 373.9; and 373.10.

methodology.¹¹ As a result of these two factors, the FDIC has decided to diverge from the interagency methodology used in 2015 and 2018 and instead use the new methodology described below to estimate burden for this information collection.

2) New Methodology

Potential respondents to this information collection (IC) are FDIC-supervised insured depository institutions (“IDIs”) including state nonmember banks, state savings institutions, insured state branches of foreign banks, and any subsidiary of the aforementioned entities. As of December 31, 2020, the FDIC supervised 3,227 state nonmember banks, state savings institutions, and insured state branches of foreign banks. Of these 3,227 IDIs, 2,382 are small for the purposes of the Regulatory Flexibility Act (RFA).¹²

Respondents to this information collection are FDIC-supervised IDIs that are securitizers of ABS. To generate a universe of potential securitizers, FDIC obtained data from Call Reports for the quarter ending on December 31 for the years 2018, 2019, and 2020, for all FDIC-supervised IDIs that reported a non-zero amount in either: (a) outstanding principal balance of assets sold and securitized with servicing retained or with recourse or other seller-provided credit enhancements;¹³ or (b) amount of loans and leases held for investment, net of allowance, and held for sale held by consolidated variable interest entities (VIEs).¹⁴ This search resulted in a list of 79 IDIs that were potential securitizers.

¹¹ The supporting statement for the OCC’s 2021 renewal is titled “1557-0249 Credit Risk Retention Supporting Statement 5-18-21 1244.docx” and can be found at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202101-1557-003.

¹² The SBA defines a small banking organization as having \$600 million or less in assets, where an organization’s “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a respondent’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the respondent is “small” for the purposes of RFA.

¹³ Schedule RC-S, item 1 on forms 031 and 041; Supplemental Info, item 4(a) on form 051;

¹⁴ Schedule RC-V, item 1(c) on forms 031 and 041;

Using this list, FDIC searched for each IDI's name in FitchConnect's repository of ABS offerings ("deals")¹⁵ and compiled a list of deals for which an IDI was listed as the issuer, sponsor, originator, or servicer of the offering. For IDIs for which deals were not found on FitchConnect, the following method was followed: The queried Call Report item labeled "(a)" above includes assets sold with recourse or other seller-provided credit enhancements, which are outside the scope of the Credit Risk Retention rule. To identify IDIs which securitized from those that did not, a \$75 million threshold of year over year growth in that item is used to identify new securitizations in 2018, 2019, and 2020, as FDIC assumes that growth of less than \$75 million would be unlikely to reflect sponsorship or issuance of new term ABS offerings during that period. This method yielded a list of 20 institutions. FDIC reviewed examination records for the 20 IDIs identified as potential securitizers to determine which institutions actually securitize. FDIC cross-referenced the list of securitizing IDIs and the list of aforementioned ABS offering naming conventions found using FitchConnect with Intex's database of prospectuses.¹⁶ From this cross-referencing, FDIC found a count of deals associated with each deal name. Finally, FDIC determined whether the sponsor or depositor for each deal was an FDIC-supervised IDI or subsidiary of an FDIC-supervised institution by reading the prospectus of each deal. Once the set of deals, with corresponding FDIC-supervised securitizers, was constructed, FDIC matched each deal with the sections in Part 373 that imposed one or more PRA requirements on that deal. Most sections impose both disclosure and recordkeeping requirements.¹⁷ For those sections, FDIC separately estimated

¹⁵ <http://app.fitchconnect.com>, using "ABS", "CMBS", and "RMBS" sections under the "Sectors" tab, last accessed on June 11, 2021.

¹⁶ <https://www.intex.com/main/>

¹⁷ With the noted exception of §373.10 Qualified Tender Option Bonds, which has no recordkeeping burden associated with it.

the burdens for each of the two types of PRA requirements. The following details the estimated respondent counts for each of these sections:

- a) Two FDIC-supervised IDIs were involved in deals in which credit risk was retained through horizontal interest (§373.4(a)(2) Standard Risk Retention – Horizontal Interest). These two IDIs were involved in four, three, and four such deals in 2018, 2019, and 2020, respectively. FDIC therefore estimates two annual respondents, with an average annual response rate of two responses per respondent, for the disclosure requirement associated with §373.4(a)(2) and the corresponding reporting requirement in §373.4(d).¹⁸
- b) Two FDIC-supervised IDIs were involved in deals in which credit risk was retained through vertical interest (§373.4(a)(1) Standard Risk Retention – Vertical Interest). These two IDIs were involved in 0, 0, and 13 such deals in 2018, 2019, and 2020, respectively. FDIC therefore estimates two annual respondents, with an average annual response rate of two responses per respondent, for the disclosure requirement associated with §373.4(a)(1) and the corresponding reporting requirement in §373.4(d).¹⁹
- c) Three FDIC-supervised IDIs were involved in deals in which credit risk was retained through revolving master trusts (§373.5 Revolving Master Trusts). These three IDIs were involved in eight, six, and zero such deals in 2018, 2019, and 2020, respectively. FDIC therefore estimates three annual respondents, with an average annual response rate of two responses

¹⁸ $4+3+4=11$ total deals. $11/(3 \text{ years} * 2 \text{ respondents})=1.83$ responses per respondent annually.

¹⁹ $0+0+13=13$ total deals. $13/(3 \text{ years} * 2 \text{ respondents})=2.17$ responses per respondent annually.

per respondent, for the disclosure requirement associated with §373.5 and the corresponding reporting requirement in §373.5(k)(3).²⁰

Using the above methodology, FDIC could not find any ABS offerings that (1) involved an FDIC-supervised IDI or subsidiary of an FDIC-supervised IDI as a securitizer and (2) were subject to the PRA requirements listed in one or more of the following ten sections: §§373.4(a)(3); 373.6; 373.7; 373.10; 373.11; 373.13; 373.15; 373.16; 373.17; and 373.18. It is possible that an FDIC-supervised IDI or subsidiary of an FDIC-supervised IDI would be a respondent to burden items related to these sections in the next three years. As such, FDIC is using one respondent and one annual response per respondent for the disclosure and recordkeeping requirements related to each of these ten sections to preserve the associated burden estimate.

Of the seven unique institutions with securitizations between 2018 and 2020, none are considered small for the purposes of the RFA.²¹

The estimated time per response varies by burden item, and these estimates are unchanged from the previous renewal which remains in line with the burden estimated adopted by the agencies.

Two burden items included in the 2018 information collection request have been removed from this renewal request. The disclosure burden related to §373.8 Fannie Mae and Freddie Mac was removed as FDIC has determined that it is not possible for FDIC-supervised IDIs or subsidiaries of FDIC-supervised IDIs to be respondents to this burden item. The disclosure burden related to §373.9 Open Market Collateralized Loan Obligations (“CLOs”) was removed because the D.C. Circuit Court invalidated section 941 of Dodd-Frank as it applies to CLOs.²²

²⁰ $8+6+0=14$ total deals. $14/(3 \text{ years} * 3 \text{ respondents})=1.56$ responses per respondent annually.

²¹ As of December 31, 2020.

²² The Loan Syndication and Trading Association v. Securities and Exchange Commission and Board of Governors of the Federal Reserve System (No. 17-5004).

The estimated annual burden, in hours, is the product of the estimated number of respondents, number of responses per respondent, and time per response, as summarized in the table below. The total estimated annual burden for this information collection is 376 hours, a 3,075-hour reduction from the 2018 burden estimate, which reflects the aforementioned change in methodology.

Summary of Estimated Annual Burden

IC Description	Type of Burden (Obligation to Respond)	Frequency of Response	Estimated Number of Respondents	Number of Responses / Respondent	Hours Per Response	Total Annual Estimated Burden
Disclosure Burdens						
§373.4(a)(2) Standard Risk Retention – Horizontal Interest	Disclosure (Mandatory)	On Occasion	2	2	5.5	22
§373.4(a)(1) Standard Risk Retention – Vertical Interest	Disclosure (Mandatory)	On Occasion	2	2	2.0	8
§373.4(a)(3) Standard Risk Retention – Combined Interest*	Disclosure (Mandatory)	On Occasion	1	1	7.5	8
§373.5 Revolving Master Trusts	Disclosure (Mandatory)	On Occasion	3	2	7.0	42
§373.6 Eligible ABCP Conduits*	Disclosure (Mandatory)	On Occasion	1	1	3.0	3
§373.7 Commercial MBS*	Disclosure (Mandatory)	On Occasion	1	1	20.75	21
§373.10 Qualified Tender Option Bonds*	Disclosure (Mandatory)	On Occasion	1	1	6.0	6
§373.11 Allocation of Risk Retention to an Originator*	Disclosure (Mandatory)	On Occasion	1	1	2.5	3
§373.13 Exemption for Qualified Residential Mortgages*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.15 Exemption for Qualifying Commercial Loans, Commercial Real Estate and Automobile Loans*	Disclosure (Mandatory)	On Occasion	1	1	20.0	20
§373.16 Underwriting Standards for Qualifying Commercial Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.17 Underwriting Standards for Qualifying Commercial Real Estate Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.18 Underwriting Standards for Qualifying Automobile Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
Disclosure Subtotal						137
Recordkeeping Burdens						
§373.4(a)(2) Standard Risk Retention – Horizontal Interest	Recordkeeping (Mandatory)	On Occasion	2	2	0.5	2
§373.4(a)(1) Standard Risk Retention – Vertical Interest	Recordkeeping (Mandatory)	On Occasion	2	2	0.5	2

§373.4(a)(3) Standard Risk Retention – Combined Interest*	Recordkeeping (Mandatory)	On Occasion	1	1	0.5	1
§373.5 Revolving Master Trusts	Recordkeeping (Mandatory)	On Occasion	3	2	0.5	3
§373.6 Eligible ABCP Conduits*	Recordkeeping (Mandatory)	On Occasion	1	1	20.0	20
§373.7 Commercial MBS*	Recordkeeping (Mandatory)	On Occasion	1	1	30.0	30
§373.11 Allocation of Risk Retention to an Originator*	Recordkeeping (Mandatory)	On Occasion	1	1	20.0	20
§373.13 Exemption for Qualified Residential Mortgages*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.15 Exemption for Qualifying Commercial Loans, Commercial Real Estate and Automobile Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	0.5	1
§373.16 Underwriting Standards for Qualifying Commercial Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.17 Underwriting Standards for Qualifying Commercial Real Estate Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.18 Underwriting Standards for Qualifying Automobile Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
Recordkeeping Subtotal						239
Total Annual Burden Hours						376 hours

Source: *FDIC*. *- There are currently zero estimated respondents for these items however, FDIC is using 1 as a placeholder to preserve the burden estimate in case an institution becomes subject to these provisions.

4. Title: Minimum Requirements for Appraisal Management Companies

OMB Number: 3064-0195.

Form Number: None

Affected Public: Individuals or households; business or other for profit.

General Description of Collection: This information collection comprises recordkeeping and disclosure requirements under regulations issued by the Federal Deposit Insurance Corporation (FDIC), jointly with the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the National Credit Union Administration (NCUA), the Bureau of Consumer Financial Protection (CFPB), and the Federal Home Finance Agency (FHFA) (collectively, “the agencies”) that implement the minimum requirements in Section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or the Act) to be

applied by states²³ in the registration and supervision of appraisal management companies (AMCs). The regulations also implement the requirement in Section 1473 of the Dodd-Frank Act for states to report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) the information required by the ASC to administer the new national registry of appraisal management companies (AMC National Registry or Registry). The information collection (IC) requirements are established in part 323 of the FDIC's codified regulations.

This information collection was last approved for renewal on October 16, 2018 ("2018 ICR") with a total annual burden estimate of 421 hours. The 2018 ICR contains two recordkeeping and two reporting IC requirements. The FDIC notes that the ASC has issued its own regulations or guidance implementing the requirements from the Act related to the information to be presented to the ASC by the participating states, and submitted an IC related to this reporting requirement.²⁴ Accordingly, the FDIC is not taking PRA burden for the associated IC (previously included as "State Reporting Requirements to Appraisal Subcommittee") and has removed it from its current ICR submission.

For each of the remaining ICs, FDIC's estimation methodology is to compute the total estimated burden hours for that IC and then assign an agreed-upon share of the burden hours to each of the regulatory agencies (FDIC, FRB, OCC, and FHFA)²⁵. The FDIC's estimated annual burden is calculated by finding the product of the estimated annual number of respondents, the estimated annual number of responses per respondent, the estimated burden hours per response and the share of the burden attributable to the FDIC.

Burden Estimate:

²³ States include the 50 U.S. states, the District of Columbia, and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. *See* 12 CFR 323.9.

²⁴ *See* OMB No. 3139-0009 and the accompanying Supporting Statement submitted by the ASC in 2021, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202102-3139-001 (accessed June 2, 2021).

²⁵ The agencies agreed to this burden-sharing methodology in 2018.

Estimated Number of Respondents

IC #1: Written Notice of Appraiser Removal from Network or Panel

This IC relates to the written notice of appraiser removal from the network or panel pursuant to § 323.10. The number of respondents is estimated to be equal to the number of appraisers who leave the profession each year multiplied by the estimated percentage of appraisers who work for AMCs. The number of appraisers who leave is calculated by adding the number of appraisers who are laid off or resign to the number of appraisers that have had their licenses revoked or surrendered. This estimation methodology is similar to the methodology used in the 2018 ICR.

The number of appraisers who are laid off or resign each year is estimated by multiplying the annual rate of “Total separations” by the number of appraisers for each year. Using data from the Bureau of Labor Statistics (BLS) for the finance and insurance industry, shown in Table 1 below, the annual rate of “Total separations” in 2020 is 25.1 percent.²⁶ The rate for 2020 is within the range of annual rates between 2011 and 2020 (20.4 to 26.0 percent, with a median of 24.8 percent) and is a reasonable estimate for future periods.

Table 1. Annual Rate of Total Separations for the Finance and Insurance Industry in the United States	
Year	Value (in %)
2011	20.4
2012	23.6
2013	26.0
2014	25.0
2015	24.5
2016	23.9
2017	25.2
2018	24.2
2019	24.6
2020	25.1

²⁶ Bureau of Labor Statistics (BLS), “Job Openings and Labor Turnover Survey: Finance and Insurance” (Series ID: JTU5200000000000000TSR), available at <https://www.bls.gov/data/> (accessed June 4, 2021).

Source: BLS, “Job Openings and Labor Turnover Survey: Finance and Insurance” (Series ID: JTU52000000000000TSR), available at <https://www.bls.gov/data/> (accessed June 4, 2021).

The number of appraisers is estimated by using the number of appraisers in 2020 as a proxy for the level of appraiser employment over the next three years.²⁷ In 2020, the total number of appraisers was 86,000 and is similar to the annual average of 87,000 appraisers between 2011 and 2020. Table 2 contains data on annual employment level for appraisers in the U.S. between 2011 and 2020:

Table 2. Annual Level of Employment for Appraisers in the United States	
Year	Value (in thousands)
2011	88
2012	93
2013	98
2014	95
2015	76
2016	73
2017	97
2018	84
2019	84
2020	86
Source: BLS, “Employed - Appraisers and assessors of real estate” (Series ID: LNU02038218), available at https://beta.bls.gov/dataViewer/view/timeseries/LNU02038218 (accessed June 2, 2021).	

Given the data summarized above, the number of appraisers who are laid off or resign is estimated by multiplying the annual number of appraisers by the annual separation rate $86,000 \times 25.1 \text{ percent} = 21,586$.

As stated above, respondents to this IC also include appraisers who have their license revoked or surrendered each year. According to the ASC, between January 1, 2010 and December 31, 2019, the counts of appraisers who have had their

²⁷ BLS, “Employed - Appraisers and assessors of real estate” (Series ID: LNU02038218), available at <https://beta.bls.gov/dataViewer/view/timeseries/LNU02038218> (accessed June 2, 2021).

license revoked or surrendered are 804 and 576, respectively.²⁸ Therefore, the annual average over the ten-year span is 138 licenses revoked or surrendered per year.²⁹

The number of appraisal removal notices for AMCs is then calculated by adding the estimate of appraisers who are laid off or resign to the number of appraisers who have their licenses revoked or surrendered, and multiplying by the estimated percent of total appraisers who work for AMCs. According the Appraisal Institute, approximately 81 percent of appraisers are sole proprietors, executives in a firm, or are listed as having other forms of employment status.³⁰ The remaining 19 percent of appraisers are employees or staff members in firms such as AMCs, appraisal services companies, or other companies. Using 19 percent as the estimate of the percentage of appraisers who work for AMCs, the estimated total number of appraiser removal notices for AMCs is 4,130 notices per year, rounded to the nearest ten.³¹ Thus, the estimated number of annual respondents for this information collection is 4,130. The respondents to this IC are either natural persons or AMCs. There are no data available currently on the number of AMCs that are considered “small,” for the purposes of the Regulatory Flexibility Act (RFA), and none of the respondents who are natural persons are small for the purposes of the RFA. As a rough approximation, to estimate the number of small respondents to this IC FDIC uses the percentage of insured depository institutions

²⁸ Federal Financial Institution Examination Council: Appraisal Subcommittee, “Annual Report 2019: Appendix E Appraiser Disciplinary Actions Reported by State,” available at <https://www.asc.gov/About-the-ASC/AnnualReports.aspx> (accessed June 2, 2021).

²⁹ The average over the ten years is calculated as (1,380, or 804 + 576) divided by 10.

³⁰ Appraisal Institute, “U.S. VALUATION PROFESSION FACT SHEET Q1 2019,” available at <https://www.appraisalinstitute.org/file.aspx?DocumentId=2342>, (accessed June 2, 2021).

³¹ The estimated total number of appraiser removal notices for AMCs is calculated as (21,586 + 138) X 19 percent, which yields 4,127.56 notices, or 4,130 after rounding to the nearest ten. The estimate is rounded to the nearest ten because 10 percent of the respondents will be allocated to FHFA, and OMB systems require whole number inputs.

that are small (70 percent) for purposes of the RFA,³² and assume that all respondents are AMCs. Thus, FDIC estimates that 2,891 respondents to this IC are small for purposes of the RFA.³³ This is likely a conservative estimate of small respondents for this information collection because not all respondents to this IC are AMCs.

The estimated number of notices per year is lower than the 2018 ICR estimate by 5,751 notices.³⁴ Two factors contributed to the drop in estimated notices: first, the number of appraisers who are laid off or resign, and the number that have had their licenses revoked or surrendered (138 and 21,586, respectively) are lower than the estimates in the 2018 ICR (245 and 23,280); second, there is more granular data available to calculate the share of appraisers employed by AMCs, appraisal services companies, or other companies. The most recent data from the Appraisal Institute contains nine separate categories for Appraiser Employment Status, whereas the data available for the 2018 ICR contained only four categories.³⁵ Given the level of aggregation available in 2018, the estimate of the share of appraisers in the 2018 ICR likely included appraisers who are employees or staff members in a government or regulatory agency, and individuals with employment statuses such as valuation consultant, professor or other academic

³² December 31, 2020, Call Report data. The Small Business Administration (SBA) defines a small banking organization as having \$600 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is "small" for the purposes of RFA.

³³ The estimated number of small respondents to this IC is calculated by multiplying the estimated number of respondents (4,130) by 70 percent.

³⁴ See OMB No. 3064-0195 and the accompanying Supporting Statement submitted by the FDIC in 2018, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201804-3064-013 (accessed June 2, 2021).

³⁵ The most recent data available from the Appraisal Institute includes five new categories (employee or staff member in a government or regulatory agency, valuation consultant, professor or other academic professional, semi-retired or retired, and student), in addition to the four categories that match closely to the data in the 2018 ICR (employee or staff member of a firm, sole proprietor of own business (no employees/partners), executive in a firm, and other).

professional, semi-retired or retired, or student. The FDIC notes that appraisers or individuals with the five employment statuses listed above would not be subject to this IC. Consequently, the share (19 percent) is much lower than the share (42 percent) used in the 2018 ICR.

IC #2: Develop and Maintain a State Licensing Program

The second information collection pertains to developing and maintaining a state licensing program for AMCs pursuant to § 323.14. Section 323.14 requires that each state electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the state must submit to the ASC certain information required under the Rule and any additional information required by the ASC concerning AMCs. Thus, this burden falls on the states, especially those that have not developed a system to register and oversee AMCs. According to the ASC there are four states (the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) that have not developed a system to register and oversee AMCs.³⁶ Thus, the estimated number of annual respondents for this burden is four. Since respondents to this IC are states, none of the respondents are considered “small” for purposes of the RFA.

IC #3: AMC Disclosure Requirements (State-regulated AMCs)³⁷

The third information collection relates to disclosure requirements for AMCs that are not federally regulated AMCs³⁸ (“state-regulated AMCs”) pursuant to Section 323.12, which involves information sent by AMCs to third parties, including states and the AMC National Registry. The disclosure requirement for this IC

³⁶ ASC, “States' Status on Implementation of AMC Programs,” available at <https://www.asc.gov/National-Registries/StatesStatus.aspx> (accessed June 2, 2021).

³⁷ Based on conversations between the SMEs at the FDIC, FRB, OCC, and FHFA, the current ICR splits the IC #3 from the 2018 ICR (titled “AMC Reporting Requirements (State and Federal AMCs) (323.12 & 13(c))”) in to two separate ICs, one each for state-regulated AMCs, and federally regulated AMCs.

³⁸ Section 323.9 defines a federally regulated AMC as “an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813 and regulated by [the OCC, FRB, or FDIC].”

includes registration limitations/requirements. According to the National Registry, accessed on June 2, 2021, there are 3,854 active AMCs, of which 3,817 are state-regulated AMCs.³⁹ FDIC does not have the data to estimate the change in the number of active state-regulated AMCs using historical information because the National Registry became available for the states to populate in July 2018, and the states' reporting characteristics vary over time.⁴⁰ For the purposes of this analysis FDIC assumes the number of state-regulated AMCs to remain approximately the same over the next three years. Thus, the estimated number of annual respondents for this burden is 3,820, after rounding up to the nearest ten.⁴¹ There are no data available currently on the number of AMCs that are small. As a rough approximation, FDIC uses the percentage of insured depository institutions that are small (70 percent) for purposes of the RFA to estimate the number of small respondents to this IC. Using this methodology FDIC estimates that 2,674 respondents to this IC are small for purposes of the RFA.⁴²

IC #4: AMC Disclosure Requirements (Federally regulated AMCs)

The fourth information collection relates to AMC disclosure requirements for federally regulated AMCs pursuant to Section 323.13(c). The disclosure requirements for this IC include registration limitations/requirements as well as information regarding the determination of the AMC National Registry fee. Of the

³⁹ ASC nonpublic data, obtained as of June 3, 2021, stored under this memo's workpapers on FDIC SharePoint.

⁴⁰ The most recent Annual Report of the ASC notes that as of December 31, 2019, the National Registry contained 1,374 AMCs registered from 14 states. As of June 2, 2021, the date I accessed the ASC's website, there are 40 states currently populating the National Registry. See Federal Financial Institution Examination Council: Appraisal Subcommittee, "Annual Report 2019: Appendix E Appraiser Disciplinary Actions Reported by State," available at <https://www.asc.gov/About-the-ASC/AnnualReports.aspx> (accessed June 2, 2021); and ASC, "States' Status on Implementation of AMC Programs," available at <https://www.asc.gov/National-Registries/StatesStatus.aspx> (accessed June 2, 2021).

⁴¹ The estimate is rounded to the nearest ten because 10 percent of the respondents will be allocated to FHFA, and OMB systems require whole number inputs.

⁴² The estimated number of small respondents to this IC is calculated by multiplying the estimated number of respondents (3,820) by 70 percent.

3,854 active AMCs, 37 are federally regulated AMCs.⁴³ FDIC does not have the data to estimate the change in the number of active federally regulated AMCs using historical information because the National Registry became available for the states to populate in July 2018, and the states' reporting characteristics vary over time.⁴⁴ For the purposes of this analysis FDIC assumes the number of federally regulated AMCs to remain approximately the same over the next three years. Thus, the estimated number of annual respondents for this burden is 39, after rounding up to the nearest multiple of three.⁴⁵ There are no data available currently on the number of AMCs that are small. As a rough approximation, FDIC uses the percentage of insured depository institutions that are small (70 percent) for purposes of the RFA to estimate the number of small respondents to this IC. Accordingly, FDIC estimates that 27 respondents to this IC are small for purposes of the RFA.⁴⁶

Estimated Number of Responses

For IC #1, FDIC assumes an AMC receives one written notice from each appraiser⁴⁷ asking to be removed from the appraiser panel, or sends one notice to each appraiser removing him/her from the panel. Thus, the estimated number of responses per respondent is one.

⁴³ ASC nonpublic data, obtained as of June 3, 2021.

⁴⁴ See footnote 40.

⁴⁵ The estimate is rounded to the nearest multiple of three because the estimated respondents will be allocated equally to the FDIC, FRB, and OCC, and OMB systems require whole number inputs. The aggregate estimated number of respondents for IC #3 and IC #4 in the current ICR (state-regulated and federally regulated AMCs) is higher than the corresponding estimate in the 2018 ICR by 3,659. The increase in the number of respondents in the current ICR is attributable to the definitive information available from the National Registry after 2018, when AMC registration requirements became effective.

⁴⁶ The estimated number of small respondents to this IC is calculated by multiplying the estimated number of respondents (39) by 70 percent.

⁴⁷ In the event of an appraiser's death or incapacitation, the AMC receives notice of death or incapacity. See 12 CFR 323.10.

For IC #2, FDIC assumes that states without a registration and licensing program would develop and maintain a single program for each state. Thus, the estimated number of responses per respondent is one.

For IC #3 and IC #4, FDIC estimates the number of responses per respondent as the number of states that do not have an AMC registration program in which the average state-regulated or federally regulated AMC operates. As discussed previously, there are four states that currently do not have an AMC registration program. As noted in the Supporting Statement accompanying the 2018 ICR, a 2013 survey conducted by the CFPB found that the average AMC operates in 19.56 states.⁴⁸ Thus, the average state-regulated or federally regulated AMC operates in approximately 2 states that do not have AMC registration systems: $(4 \text{ states} / 55 \text{ states}) \times 19.56 \text{ states} = 1.422 \text{ states} \sim \text{rounded up to 2 states}$.

Frequency of Responses

For IC #1, as discussed above, the AMC receives (or sends) a written notice in the event an appraiser no longer serves on the panel. Since this event occurs on occasion, FDIC uses “On Occasion” as the Frequency of Responses for this IC and assumes a frequency of one.

For IC #2, FDIC assumes the states that have currently elected not to register and oversee AMCs could choose to do so at any time. Since this event occurs on occasion, FDIC uses “On Occasion” as the Frequency of Responses for this IC and assumes a frequency of one.

For IC #3 and IC #4, FDIC assumes the state-regulated or federally regulated AMCs that are currently operating in a state but have not yet registered with that state could choose to do so any time. Since this event occurs on occasion, FDIC

⁴⁸ See OMB No. 3064-0195 and the accompanying Supporting Statement submitted by the FDIC in 2018, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201804-3064-013 (accessed June 2, 2021). Additional details on the survey can be found in the text accompanying the final rule. See Minimum Requirements for Appraisal Management Companies, 80 Fed. Reg. 32,677 (June 9, 2015).

uses “On Occasion” as the Frequency of Responses for this IC and assumes a frequency of one.

Estimated Time per Response

The 2018 ICR estimate of the hour burden per written notice of appraiser removal was 0.08 hours. The FDIC believes this estimate remains reasonable and appropriate for this IC and uses 0.08 hours as the estimated time per response for IC #1.

The 2018 ICR estimate of the hour burden for a state without a registration program or system to establish one was 40 hours. The FDIC believes this estimate remains reasonable and appropriate for this IC and uses 40 hours as the estimated time per response for IC #2.

The 2018 ICR estimate of the hour burden for a state-regulated or federally regulated AMC to register in a state in which it operates was one hour. The FDIC believes this estimate remains reasonable and appropriate for IC #3 and IC #4 and uses one hour each as the estimated time per response for IC #3 and IC #4.

The estimated annual burden, in hours, for the four agencies (FDIC, FRB, OCC, and FHFA) is the product of the estimated number of respondents per year allocated to each agency, the number of responses per respondent per year, and the hours per response, as summarized in Tables 3 and 4 below. For IC #1, and IC #3, the estimated respondents are split between the four agencies the FDIC, FRB, OCC, and FHFA, at a ratio of 3:3:3:1.⁴⁹ Thus, the estimated number of annual

⁴⁹ The assumption to divide the burden hours between the agencies is based on conversations between the subject matter experts at the FDIC, FRB, OCC, and FHFA and is based on the approximate proportion of AMCs supervised by the three banking agencies and evenly split among the three banking agencies. The burden hours are shared using the same ratio as the 2018 ICR. The ratio does not affect the total amount of burden imposed by the collections of information under the joint AMC regulations, and relates only to the appropriate distribution among the rulemaking agencies of responsibility (under the PRA) for a portion of the total estimated burden. *See* OMB No. 2590-0013 and the accompanying Supporting Statement submitted by the FHFA in 2018, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201807-2590-002 (accessed June 16, 2021).

respondents attributable to the FDIC, FRB, and OCC for IC #1, and IC #3 are 1,239, and 1,146 each, respectively. Similarly the estimated number of annual respondents attributable to the FHFA for IC #1, and IC #3 are 413, and 382, respectively. For IC #2, the estimated number of respondents is split equally amongst the four agencies which amounts to one respondent each.⁵⁰ For IC #4, the estimated number of respondents (39) is split equally amongst the three banking agencies (13 each) as §323.9 defines a federally regulated AMC as an AMC owned and controlled by an insured depository institution, which is regulated by the FDIC, FRB, or OCC. The total estimated annual burden for this information collection is 8,208 hours.⁵¹ The FDIC, FRB, and OCC will each have equally-sized shares of the total estimated burden, with each agency responsible for 2,457 hours. The FHFA is responsible for the remaining 837 hours.

Table 3. Summary of Estimated Annual Burdens - FDIC, FRB, and OCC Share (OMB No. 3064-0195)						
IC Description	Type of Burden (Obligation to Respond)	Frequency of Response	Number of Respondents	Number of Responses per Respondent	Hours per Response	Annual Burden (Hours)
IC #1 - Written Notice of Appraiser Removal From Network or Panel (12 CFR part 323.10)	Disclosure ⁵² (Mandatory)	On occasion	1,239	1	0.08	99
IC #2 - State Recordkeeping Requirements (12 CFR parts 323.11(a) and 323.11(b))	Recordkeeping (Mandatory)	On occasion	1	1	40	40

⁵⁰ For IC #2, the assumption to divide the burden hours equally between the agencies is based on conversations between the SMEs at the FDIC, FRB, OCC, and FHFA. The burden hours are shared using the same ratio as the 2018 ICR.

⁵¹ The estimated total annual burden hours of 8,208 is obtained by aggregating the estimated total annual burden hours for the FDIC, FRB, and OCC in Table 3 (7,371, or 2,457 X 3) with the corresponding value for the FHFA in Table 4 (837).

The estimated hour burden in the current ICR (8,208) higher than the 2018 ICR estimate by 6,763 hours. The increase is predominantly driven by the increase in the aggregate estimated number of respondents to IC #3 and IC #4. As discussed previously, the estimated number of respondents is higher than the estimate in the 2018 ICR due to the definitive information available from the National Registry after 2018.

⁵² The 2018 ICR erroneously classified IC #1 as a Recordkeeping requirement. The burden for this IC has been changed to a Disclosure requirement.

IC #3 - AMC Disclosure Requirements (State-regulated AMCs) (12 CFR part 323.12)	Disclosure ⁵³ (Mandatory)	On occasion	1,146	2	1	2,292
IC #4 - AMC Disclosure Requirements (Federally regulated AMCs) (12 CFR parts 323.12 and 323.13(c))	Disclosure (Mandatory)	On occasion	13	2	1	26
Total Annual Burden Hours (FDIC, FRB, and OCC Share):						2,457
Source: FDIC.						

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.
Dated at Washington, DC, on October 15, 2021.
James P. Sheesley,
Assistant Executive Secretary.

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⁵³ The 2018 ICR erroneously classified IC #3 as a Reporting requirement. The burden for this IC has been changed to a Disclosure requirement.